

REMARKS**Claim Status**

Claims 1, 4-6, 9-11, 13-15, and 34-51 are pending in the application. Claims 1, 4-6, 9-11, 13, 15, and 34 have been amended, currently and/or previously. Claims 2, 3, 7, 8, 12, and 16-33 have been cancelled without prejudice. Claims 35-51 have been added. The Applicant respectfully requests reconsideration of the previously rejected claims in view of the above amendments and the arguments below.

Allowed Claims

The Applicant gratefully acknowledges notification of allowable subject matter in claims 3-5, 8-11, and 13-15. Claim 1 has been amended to incorporate all limitations of claim 3. Claim 3 has now been cancelled, and claims 4 and 5 have been amended to depend from claim 1, instead of claim 3. Claim 6 has been amended to incorporate all limitations of claim 8. Claim 8 has been cancelled, and claims 9 and 10 have been amended to depend from claim 6, instead of claim 8. Accordingly, claims 1, 4-6, 9-11, and 13-15 are believed to be allowable.

Art Rejections

Claims 17-19 and 22-34 were rejected under 35 U.S.C. §§102 & 103(a) as being unpatentable over U.S. Patent Number 6,430,193 to Raissinia *et al.* ("Raissinia" hereinafter). Claim 34 has been amended to recite all limitations of the original claim 1. We believe that the scope of

claim 34 has not been changed by the present amendment. Claims 17-19 and 22-33 have been cancelled and new claims 36, 37, and 39-51 have been added in their place. These new claims depend from new claims 35 and 38, which incorporate all limitations of the original claim 1. We believe that the scope of the new claims 36, 37, and 39-51 is the same as the scope of the now cancelled claims 17-19 and 22-33.

New claim 42 corresponds to the now cancelled claim 24. Regarding claim 24, the Office Action stated that Raissinia discloses adjusting error rate at column 7, lines 30-62. The undersigned has examined Raissinia, but has not found a teaching of adjusting error code parameter in the cited text, or elsewhere. Raissinia does teach the use of error correction, but it appears that it does not teach adjusting the error correction parameter or error correction scheme. In particular Raissinia apparently does not teach adjusting the error correction parameter in response to the second information regarding characteristics of the communication link. We therefore respectfully traverse this rejection and request further examination of claim 42.

Regarding claim 34, the Office Action stated that Raissinia teaches a back haul connection between the base station and a non-wireless communication system. A "backhaul" connection is generally understood to mean a connection to a network backbone, or a connection that carries voice and data traffic from a cell site to a switch, *i.e.*, from a remote site to a central site. See, for example, definitions of backhaul given by Webopedia, available at <http://www.webopedia.com/TERM/b/backhaul.html>; and by Techtarget, available at http://whatis.techtarget.com/definition/0,,sid9_gci211630,00.html. These definitions are consistent with the use of "backhaul" in the present application. Raissinia discloses a central access point

(headend 102) and a number of subscribers (104) in a wireless point-to-multipoint communication system. See, for example, Raissinia's Figure 1 and column 3, line 64, through column 4, line 10. These are not backhaul connections as the term is typically understood in the relevant art or as it is used in the claims of the present application. Indeed, Raissinia does not use the term "backhaul," and apparently does not disclose a backhaul connection.

In rejecting claims 17-19, 22, 23, and 25-33 (which correspond to the newly-added claims 36, 37, 39, 40, 41, and 43-51), the Office Action stated that the additional limitations of these claims are well known, and, therefore, it would have been obvious to adapt to Raissinia's system any of the additional parameters or sensing techniques recited. We respectfully traverse these rejections.

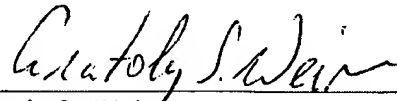
The Patent and Trademark Office has the burden of making a *prima facie* case of obviousness. *E.g.*, *In re Mayne*, 104 F.3d 1339, 1342 (Fed. Cir. 1997); MPEP § 2142. For a *prima facie* case of obviousness, the prior art must suggest the combination or method claimed and reveal a reasonable expectation of success. *In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991); MANUAL OF PATENT EXAMINING PROCEDURE §2142 & 2143 (8th ed., rev. 1, Feb. 2003). "Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the Applicant's disclosure." *In re Vaeck*, 947 F.2d at 493. Here, the Office Action does not offer any suggestion or motivation to add the limitations in issue to Raissinia's system. For this reason, we respectfully submit that a *prima facie* case of obviousness has not been made.

CONCLUSION

For the foregoing reasons, the Applicant respectfully submits that all pending claims are patentable over Raissinia. To discuss any matter pertaining to the instant application, the Examiner is invited to call the undersigned attorney at (858) 720-9431.

Having made an effort to bring the application in condition for allowance, a timely notice to this effect is earnestly solicited.

Respectfully submitted,



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